

AMENDED IN SENATE MAY 2, 2006
AMENDED IN SENATE APRIL 17, 2006
AMENDED IN SENATE MARCH 28, 2006
AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1319

Introduced by Senator Cedillo

February 16, 2006

An act to add Section 1317.9 to the Health and Safety Code and to add Section 851.91 to the Penal Code, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Cedillo. ~~Criminal procedure: release from custody in jail.~~ *Homeless persons: release from hospitals and jails.*

Existing law generally regulates the conditions of arrest and release from custody *and release from hospitals and medical facilities.*

This bill would state findings and declarations of the Legislature relative to "homeless dumping," as defined.

This bill would prohibit ~~public agencies, as defined, hospitals, medical facilities, law enforcement agencies, and employees of the hospitals, facilities, and agencies~~ from ~~releasing~~ transporting a person from their custody into a location for the purpose of removing the person from a specific neighborhood, city, county or jurisdiction in need of support services, as specified, to the location of support service providers without first confirming the support service provider has space for the person and that the person agrees to be transported. This bill would authorize a civil action against the ~~agency hospital, medical facility, law enforcement agency or employees of the hospital, facility, or agency~~ for preventive relief, as specified. This bill would

also authorize a civil penalty against the ~~agency~~ *hospital, medical facility, law enforcement agency or employee of the hospital, facility, or agency* in the amount of \$10,000 per violation and attorney's fees to be awarded to the prevailing plaintiff.

By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) Many cities and local arresting agencies transport persons
- 4 in need of drug treatment, mental health, or homeless support
- 5 services to other jurisdictions because of the presence of service
- 6 providers, regardless of available treatment beds.
- 7 (b) The act of transporting those persons in need to the streets
- 8 where service providers are present without confirming the
- 9 availability of services is known as "homeless dumping."
- 10 SEC. 2. Section 1317.9 is added to the Health and Safety
- 11 Code, to read:
- 12 1317.9. (a) No hospital or medical facility may transport or
- 13 provide transportation to a person who is in need of homeless
- 14 support services to a homeless service provider or shelter unless
- 15 each of the following apply:
- 16 (1) The person agrees to be transported.
- 17 (2) The ~~agency~~ *hospital or medical facility* transports or
- 18 provides transportation for the person directly to the homeless
- 19 service provider for immediate enrollment.
- 20 (3) The homeless service provider confirms there is available
- 21 space for the person to be transported.

(b) Whenever there is reasonable cause to believe that a hospital or medical facility, or an employee of the hospital or facility, violated this section, the following parties may bring a civil action seeking preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the hospital or facility *or employee of the hospital or facility* that violated this section:

(1) The Attorney General, a district attorney, or a city attorney.

(2) A person who was transported in violation of this section.

(3) A homeless service provider or shelter that suffered a direct violation of this section.

(4) Any person aggrieved by the transportation of another person to a location in the immediate vicinity of the person's business or residence in violation of this section.

(c) A hospital or facility that violates this section, or whose employee violates this section, is subject to a civil penalty of up to ten thousand dollars (\$10,000) for each act of transporting a person that resulted in one or more violations of this section, to be distributed as follows:

(1) If the action is brought by a homeless service provider or shelter pursuant to paragraph (3) of subdivision (b), any civil penalty assessed shall be paid to the homeless service provider or shelter. A prevailing plaintiff under this paragraph may be awarded reasonable attorney's fees and costs.

(2) If the action is brought by any other party, any civil penalty assessed pursuant to this section shall be deposited into a county fund used exclusively to address the needs of homeless individuals of the county. A prevailing plaintiff under this section may recover reasonable attorney's fees and costs from the civil penalty, prior to its deposit into the county fund, pursuant to the common fund doctrine.

SEC. 3. Section 851.91 is added to the Penal Code, to read:

851.91. (a) No law enforcement agency may transport or provide transportation to a person who is in need of homeless support services to a homeless service provider or shelter unless each of the following apply:

(1) The person agrees to be transported to the receiving area of the service provider for the purpose of enrollment.

1 (2) The agency transports or provides transportation for the
2 person directly to the homeless service provider for immediate
3 enrollment.

4 (3) The homeless service provider confirms there is available
5 space for the person to be transported.

6 (4) The law enforcement agency transports the person to the
7 receiving area of the service provider for the purpose of
8 enrollment.

9 (b) Whenever there is reasonable cause to believe that a law
10 enforcement agency, or an employee of the law enforcement
11 agency, violated this section, the following parties may bring a
12 civil action seeking preventative relief, including an application
13 for a permanent or temporary injunction, restraining order, or
14 other order against the law enforcement agency or the employee
15 of the law enforcement agency that violated this section:

16 (1) The Attorney General, a district attorney, or a city
17 attorney.

18 (2) A person who was transported in violation of this section.

19 (3) A homeless service provider or shelter that suffered a
20 direct violation of this section.

21 (4) Any person aggrieved by the transportation of another
22 person to a location in the immediate vicinity of the person's
23 business or residence in violation of this section.

24 (c) A law enforcement agency that violates this section, or
25 whose employee violates this section, is subject to a civil penalty
26 of up to ten thousand dollars (\$10,000) for each act of
27 transporting a person that results in one or more violations of this
28 section, to be distributed as follows:

29 (1) If the action is brought by a homeless service provider or
30 shelter pursuant to paragraph (3) of subdivision (b), any civil
31 penalty assessed shall be paid to the homeless service provider or
32 shelter. A prevailing plaintiff ~~under this paragraph~~ may be
33 awarded reasonable attorney's fees and costs.

34 (2) If the action is brought by any other party, any civil
35 penalty assessed pursuant to this section shall be deposited into a
36 county fund used exclusively to address the needs of homeless
37 individuals of the county. A prevailing plaintiff ~~under this section~~
38 ~~may recover reasonable attorney's fees and costs from the civil~~
39 ~~penalty, prior to its deposit into the county fund, pursuant to the~~

1 ~~common fund doctrine~~; *may be awarded reasonable attorney's*
2 *fees and costs.*

3 SEC. 4. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

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